

AMENDED IN ASSEMBLY JUNE 24, 2010
AMENDED IN ASSEMBLY MAY 26, 2010
AMENDED IN ASSEMBLY MARCH 11, 2010
AMENDED IN ASSEMBLY JULY 16, 2009
AMENDED IN ASSEMBLY JULY 2, 2009
AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 220

Introduced by Senator Yee
(Coauthor: Assembly Member Hill)

February 23, 2009

An act to add Section 1367.27 to the Health and Safety Code, and to add Section 10123.175 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 220, as amended, Yee. Health care coverage: tobacco cessation services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health care service plan and a health insurer are required to provide coverage for specified tests, including all generally medically accepted cancer screening tests.

This bill would require certain health care service plan contracts and health insurance policies that provide outpatient prescription drug

benefits to also provide coverage for tobacco cessation services that include specified courses of treatment and medication, and would prohibit the imposition of copayments, coinsurance, or deductibles for the receipt of those benefits, *as specified*.

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) Providing tobacco cessation counseling and medication is
- 3 one of the most clinically effective and cost-effective health
- 4 services available, second only to inoculations. Tobacco cessation
- 5 is 5 to 80 times more cost effective than pharmacologic
- 6 interventions used to prevent heart attacks.
- 7 (b) More than 70 percent of smokers wish they could quit
- 8 tobacco, and each year one of every two smokers attempts to quit.
- 9 However, the unassisted successful tobacco quit rate has remained
- 10 constant at less than five percent. Access to counseling and
- 11 pharmaceutical benefits doubles the successful quit rate and has
- 12 achieved quit rates of 25 to 30 percent. Experience in health plans
- 13 indicates that access to all cessation services saves four dollars
- 14 (\$4) for every dollar (\$1) invested.
- 15 (c) Each adult smoker costs employers one thousand seven
- 16 hundred sixty dollars (\$1,760) in lost productivity and one thousand
- 17 six hundred twenty-three dollars (\$1,623) in excess medical
- 18 expenditures. Men who smoke incur fifteen thousand eight hundred
- 19 dollars (\$15,800) more in lifetime medical expenses than men who
- 20 do not smoke. For employers, the ultimate financial return is
- 21 between five dollars (\$5) and six dollars (\$6) for every dollar spent
- 22 on tobacco cessation.

1 (d) Because of member transfers between plans, financial
2 savings and tobacco-related disease reductions are effective only
3 if universally available to the entire insured population. Therefore,
4 a mandate on all plans and insurers to provide cost-effective
5 treatment is necessary and beneficial.

6 (e) It is the intent of the Legislature that this act diminish the
7 statewide economic and personal cost of tobacco addiction by
8 making tobacco cessation treatments available to all smokers.
9 California has successfully reduced tobacco consumption in the
10 last decade, but, despite that success, tobacco use is responsible
11 for the unnecessary deaths of 40,000 residents and remains the
12 leading cause of preventable death in this state. Annually, tobacco
13 addiction costs California \$8.6 billion in direct medical costs,
14 which is approximately 12 percent of all health care costs.

15 SEC. 2. Section 1367.27 is added to the Health and Safety
16 Code, to read:

17 1367.27. (a) A health care service plan contract, except a
18 specialized health care service plan contract, that is issued,
19 amended, delivered, or renewed on or after July 1, 2011, that
20 provides outpatient prescription drug benefits, shall include
21 coverage for tobacco cessation services that include two courses
22 of treatment in a 12-month period including personal counseling,
23 which may be telephone, group, or individual counseling, and all
24 medications approved by the FDA for the purpose of tobacco
25 cessation, including all prescription and over-the-counter
26 medications. Covered treatment shall follow recommendations in
27 the Public Health Service sponsored 2008 clinical practice
28 guideline, "Treating Tobacco Use and Dependence: 2008 Update,"
29 or its successors.

30 (b) No copayment, coinsurance, or deductible shall be applied
31 to the benefits under this section.

32 (c) A health care service plan may contract with qualified local,
33 statewide, or national providers, whether for profit or nonprofit,
34 for the provision of services under this section.

35 (d) A health care service plan shall disclose the benefits under
36 this section in its evidence of coverage and disclosure forms and
37 communicate the availability of coverage to all enrollees at least
38 once per year.

39 (e) The coverage provided pursuant to this section shall only
40 be available upon the order of an authorized provider. Nothing in

1 this subdivision shall preclude a plan from allowing enrollees to
2 access tobacco cessation services on a self-referral basis.

3 (f) As used in this section, “course of treatment” shall be defined
4 to consist of the following:

5 (1) As applied to counseling, at least four sessions of counseling,
6 each session lasting at least 10 minutes.

7 (2) As applied to a prescription or over-the-counter medication,
8 the duration of treatment approved by the FDA for that medication.

9 (g) Enrollees shall not be required to enter counseling in order
10 to receive tobacco cessation medications.

11 (h) A health care service plan shall not impose prior
12 authorization or stepped-care requirements on tobacco cessation
13 treatment.

14 (i) *A health care service plan shall implement this section*
15 *consistent with the requirements of the Health Care Providers’*
16 *Bill of Rights, and a material change in the obligations of a plan’s*
17 *contracting providers shall be considered a material change to*
18 *the provider contract, within the meaning of subdivision (b) of,*
19 *and paragraph (2) of subdivision (g) of, Section 1375.7.*

20 SEC. 3. Section 10123.175 is added to the Insurance Code, to
21 read:

22 10123.175. (a) Every individual or group health insurance
23 policy that is issued, amended, delivered, or renewed on or after
24 July 1, 2011, that provides outpatient prescription drug benefits,
25 shall include coverage for tobacco cessation services that include
26 two courses of treatment in a 12-month period including personal
27 counseling, which may be telephone, group, or individual
28 counseling, and all medications approved by the FDA for the
29 purpose of tobacco cessation, including all prescription and
30 over-the-counter medications. Covered treatment shall follow
31 recommendations in the Public Health Service sponsored 2008
32 clinical practice guideline, “Treating Tobacco Use and
33 Dependence: 2008 Update,” or its successors.

34 (b) No copayment, coinsurance, or deductible shall be applied
35 to the benefits under this section.

36 (c) A health insurer may contract with qualified local, statewide,
37 or national providers, whether for profit or nonprofit, for the
38 provision of services under this section.

1 (d) An insurer shall disclose the benefits under this section in
2 its evidence of coverage and disclosure forms and communicate
3 the availability of coverage to all insureds at least once per year.

4 (e) The coverage provided pursuant to this section shall only
5 be available upon the order of an authorized provider. Nothing in
6 this subdivision shall preclude an insurer from allowing insureds
7 to access tobacco cessation services on a self-referral basis.

8 (f) As used in this section, “course of treatment” shall be defined
9 to consist of the following:

10 (1) As applied to counseling, at least four sessions of counseling,
11 each session lasting at least 10 minutes.

12 (2) As applied to a prescription or over-the-counter medication,
13 the duration of treatment approved by the FDA for that medication.

14 (g) Insureds shall not be required to enter counseling in order
15 to receive tobacco cessation medications.

16 (h) A ~~health-care service plan~~ *insurance policy* shall not impose
17 prior authorization or stepped-care requirements on tobacco
18 cessation treatment.

19 (i) This section shall not apply to Medicare supplement,
20 short-term limited duration health insurance, vision-only,
21 dental-only, or CHAMPUS-supplement insurance, or to hospital
22 indemnity, hospital-only, accident-only, or specified disease
23 insurance that does not pay benefits on a fixed benefit, cash
24 payment only basis.

25 SEC. 4. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.